

REMARKS

Status of the claims:

With the above amendments, claims 6, 9, and 45 have been amended, claims 1-5, 22-40, and 47-50 are canceled, claims 51-66 are added, and claims 6-21, 41-46, and 51-66 are pending and ready for further action on the merits. No new matter has been added by way of the above amendments. Support for the amendment to claims 6, 9, and 45 can be found in the written description at page 4, lines 7-25 and in original claim 41. Support for new claims 51-66 can be found at page 7, line 7 – page 8, line 21 of the written description.

Restriction Requirement

The Examiner has issued a restriction requirement with the following groups:

Group I, claims 1-5, drawn to a culture of cyanobacterium from *Nostoc*.

Group II, claims 6-8, drawn to a method of producing a culture.

Group III, claims 9-21 drawn to a cultivation method.

Group IV, claims 22-26, drawn to a composition.

Group V, claims 27-35, drawn to a pharmaceutical composition.

Group VI, claims 36-39, drawn to a cyanobacterial growing medium.

Group VII, claim 40 drawn to a bioreactor.

Group VIII, claims 41-44 drawn to a food product.

Group IX, claims 45-46 drawn to a method for enhancing health.

Group X, claims 47-50, drawn to a dietary supplement.

The Examiner asserts that the inventions listed in Groups I-X do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features.

Moreover, should Applicant select Group V, the Examiner has required an election of species.

Election

Applicants elect with traverse the subject matter of Group VIII (claims 41-44, drawn to a food product). As Applicant did not elect Group V, there is no corresponding election of species required.

Applicants have either canceled claims directed to the other groups in the above restriction requirement or amended the claims so that they are so linked and form a single inventive concept under PCT Rule 13.1 and therefore fit within the scope of the elected Group VIII.

Applicants respectfully request that all pending claims be examined together in accordance with the provisions of PCT Rules 13.1 and 13.2 because all claims share a special technical feature that makes a contribution over the prior art. In this regard, Applicants respectfully direct the Examiner's attention to Appendix AI of the MPEP (a photocopy of which is attached). The Administrative Instructions Under the PCT, Annex B, Unity of Invention (e) states:

[t]he method for determining unity of invention under Rule 13 shall be construed as permitting, in particular, the inclusion of any one of the following combinations of claims of different categories in the same international application:
(i) in addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product, or . . .

MPEP, Appendix AI, Annex B.

Further, one example cited by the Annex, illustrates how claims, such as the amended claims presented here, are to be examined under PCT Rule 13. Example 1 states:

Claim 1: A method of manufacturing chemical substance X.
Claim 2: Substance X.
Claim 3: The use of substance X as an insecticide.
Unity exists between claims 1, 2, and 3. The special technical feature common to all the claims is substance X.

See attached page of Annex B.

Because the claims as amended fit into similar categories as the above example, Applicants respectfully request that the claims be examined together. In other words, Applicants respectfully assert that claims 6-21, 45-46, and 51-66 as currently amended, satisfy the requirements of unity of invention under PCT Rule 13 and should be examined with the elected claims of Group VIII (claims 41-44), drawn to a food product.

CONCLUSION

Applicants believe that no fee is necessary, however, should a fee be deemed to be necessary, the Commissioner is hereby authorized to charge any fees required by this action or any future action to Deposit Account No. 16-1435.

Should the Examiner have any questions relating to the instant application, the Examiner is invited to telephone the undersigned at (336) 607-7300 to discuss any issues.

Respectfully submitted,

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